



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6907-99

11 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 8 February 1971 for four years at age 19. The record reflects that you were advanced to HA (E-2) and served for only five months without incident. During the 21 month period from August 1971 to May 1973 you received four nonjudicial punishments (NJP) for cheating on a test, larceny, a 13 day period of unauthorized absence, missing movement, and failure to obey a lawful order.

On 31 May 1974, you were arrested by civil authorities for trafficking in drugs. You were subsequently indicted for conspiring to import heroin into the United States and attempting to import approximately 350 grams of heroin into a United States territory from Thailand.

On 22 August 1974, you received your fifth NJP for failure to go to your appointed place of duty and failure to obey a lawful order.

On 12 December 1974 you were convicted by civil authorities on your plea of guilty of conspiracy to import 350 grams of heroin into the territory of Guam. You were sentenced to confinement for three years. However, the sentence was suspended and you were placed on probation for five years.

On 20 December 1974 you were notified that administrative separation processing was being initiated by reason of misconduct due to a civil conviction. You were advised of your procedural rights and elected to present your case to an administrative discharge board (ADB). You appeared before an ADB with counsel on 2 January 1975. The ADB found you had committed misconduct and recommended separation with an undesirable discharge. The CO concurred with the ADB proceedings and recommended an undesirable discharge. On 18 February 1975, the Chief of Naval Personnel directed an undesirable discharge by reason of misconduct due to civil conviction. You were so discharged on 26 February 1975.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been more than 25 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of five NJPs and the serious nature of the offense of which you were convicted by civil authorities. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that you were guilty of too much misconduct to warrant recharacterization of your discharge to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director